

(2) both bilaterally and within the United Nations, the President should aggressively seek to change the terms by which Operation Lifeline Sudan and other groups are prohibited from providing necessary relief according to the true needs of the people of Sudan;

(3) the President, acting through the United States Agency for International Development, should—

(A) begin providing development assistance in areas of Sudan not controlled by the regime in Khartoum with the goal of building self-sufficiency and avoiding the same conditions which have created the current crisis, and with the goal of longer-term economic, civil, and democratic development, including the development of rule of law, within the overall framework of United States strategy throughout sub-Saharan Africa; and

(B) undertake such efforts without regard to the constraints that now compromise the ability of Operation Lifeline Sudan to distribute famine relief or that could constrain future multilateral relief arrangements;

(4) the Administrator of the United States Agency for International Development should submit a report to the appropriate congressional committees on the Agency's progress toward meeting these goals; and

(5) the policy expressed in this resolution should be implemented without a return to the *status quo ante* policy after the immediate famine conditions are addressed and international attention has decreased.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President and the Administrator of the United States Agency for International Development.

AMENDMENTS SUBMITTED

RICKY RAY HEMOPHILIA RELIEF FUND ACT OF 1998

JEFFORDS AMENDMENT NO. 3483

(Ordered referred to the Committee on Labor and Human Resources.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill (H.R. 1023) to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Ricky Ray Hemophilia Relief Fund Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HEMOPHILIA RELIEF FUND

Sec. 101. Ricky Ray Hemophilia Relief Fund.

Sec. 102. Compassionate payment.

Sec. 103. Determination and payment.

Sec. 104. Limitation on transfer of rights and number of petitions.

Sec. 105. Time limitation.

Sec. 106. Certain claims not affected by payment.

Sec. 107. Limitation on agent and attorney fees.

Sec. 108. Definitions.

TITLE II—TREATMENT OF CERTAIN PRIVATE SETTLEMENT PAYMENTS IN HEMOPHILIA-CLOTTING-FACTOR SUIT UNDER THE MEDICAID AND SSI PROGRAMS

Sec. 201. Treatment of certain private settlement payments in hemophilia-clotting-factor suit under the Medicaid and SSI programs.

TITLE I—HEMOPHILIA RELIEF FUND

SEC. 101. RICKY RAY HEMOPHILIA RELIEF FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the "Ricky Ray Hemophilia Relief Fund", which shall be administered by the Secretary of the Treasury.

(b) INVESTMENT OF AMOUNTS IN FUND.—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on and proceeds from any such investment shall be credited to and become part of the Fund.

(c) AVAILABILITY OF FUND.—Amounts in the Fund shall be available only for disbursement by the Secretary of Health and Human Services under section 103.

(d) TERMINATION.—The Fund shall terminate upon the expiration of the 5-year period beginning on the date of the enactment of this Act. If all of the amounts in the Fund have not been expended by the end of the 5-year period, investments of amounts in the Fund shall be liquidated, the receipts of such liquidation shall be deposited in the Fund, and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury of the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund to carry out this title \$1,771,400,000.

SEC. 102. COMPASSIONATE PAYMENT.

(a) ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—If the conditions described in subsection (b) are met and if there are sufficient amounts in the Fund to make the payment involved, the Secretary shall make a single payment of \$100,000 from the Fund to any individual—

(A) who—

(i) has an HIV infection; or

(ii) is diagnosed with AIDS; and

(B) who is described in paragraph (2).

(2) REQUIREMENT.—An individual described in this paragraph is any of the following individuals:

(A) An individual who—

(i) has any form of blood-clotting disorder, such as hemophilia, and was treated with antihemophilic factor at any time during the period beginning on July 1, 1982, and ending on December 31, 1987; or

(ii) was treated with HIV contaminated blood transfusion, HIV contaminated blood components, or HIV contaminated human tissue during the period beginning on January 1, 1982, and ending on March 31, 1985.

(B) An individual who—

(i) is the lawful spouse of an individual described in subparagraph (A); or

(ii) is the former lawful spouse of an individual described in subparagraph (A) and was the lawful spouse of the individual at any time after a date, within the applicable period described in such subparagraph, on which the individual was treated as described in such paragraph and through medical documentation can assert reasonable certainty of transmission of HIV from the individual described in such subparagraph.

(C) The individual acquired the HIV infection through perinatal transmission from a parent who is an individual described in subparagraph (A) or (B).

(b) CONDITIONS.—The conditions described in this subsection are, with respect to an individual, as follows:

(1) SUBMISSION OF MEDICAL DOCUMENTATION.—The individual submits to the Secretary written medical documentation that—

(A) the individual has (or had) an HIV infection; and

(B)(i) in the case of an individual described in subsection (a)(2)(A)(i), that the individual has (or had) a blood-clotting disorder, such as hemophilia, and was treated as described in such section; and

(ii) in the case of an individual described in subsection (a)(2)(A)(ii), the individual was treated with HIV contaminated blood transfusion, HIV contaminated blood components, or HIV contaminated human tissue provided by a medical professional during the period described in such subsection.

(2) PETITION.—A petition for the payment is filed with the Secretary by or on behalf of the individual.

(3) DETERMINATION.—The Secretary determines, in accordance with section 103(b), that the petition meets the requirements of this title.

SEC. 103. DETERMINATION AND PAYMENT.

(a) ESTABLISHMENT OF FILING PROCEDURES.—The Secretary of Health and Human Services shall establish procedures under which individuals may submit petitions for payment under this title.

(b) DETERMINATION.—For each petition filed under this title, the Secretary shall determine whether the petition meets the requirements of this title.

(c) PAYMENT.—

(1) IN GENERAL.—To the extent there are sufficient amounts in the Fund to cover each payment, the Secretary shall pay, from the Fund, each petition that the Secretary determines meets the requirements of this title in the order received.

(2) PAYMENTS IN CASE OF DECEASED INDIVIDUALS.—

(A) IN GENERAL.—In the case of an individual referred to in section 102(a)(1)(A)(ii) who is deceased at the time that payment is made under this section on a petition filed by or on behalf of the individual, the payment shall be made as follows:

(i) If the individual is survived by a spouse who is living at the time of payment, the payment shall be made to such surviving spouse.

(ii) If the individual is not survived by a spouse described in clause (i), the payment shall be made in equal shares to all children of the individual who are living at the time of the payment.

(iii) If the individual is not survived by a person described in clause (i) or (ii), the payment shall be made in equal shares to the parents of the individual who are living at the time of payment.

(iv) If the individual is not survived by a person described in clause (i), (ii), or (iii), the payment shall revert back to the Fund.

(B) FILING OF PETITION BY SURVIVOR.—If an individual eligible for payment under section 102(a) dies before filing a petition under this title, a survivor of the individual may file a petition for payment under this title on behalf of the individual if the survivor may receive payment under subparagraph (A).

(C) DEFINITIONS.—For purposes of this paragraph:

(i) The term "spouse" means an individual who was lawfully married to the relevant individual at the time of death.

(ii) The term "child" includes a recognized natural child, a stepchild who lived with the relevant individual in a regular parent-child relationship, and an adopted child.

(iii) The term "parent" includes fathers and mothers through adoption.

(3) TIMING OF PAYMENT.—The Secretary may not make a payment on a petition

under this title before the expiration of the 120-day period beginning on the date of the enactment of this Act or after the expiration of the 5-year period beginning on the date of the enactment of this Act.

(d) **ACTION ON PETITIONS.**—The Secretary shall complete the determination required by subsection (b) regarding a petition not later than 120 days after the date the petition is filed under this title.

(e) **HUMANITARIAN NATURE OF PAYMENT.**—This Act does not create or admit any claim of or on behalf of the individual against the United States or against any officer, employee, or agent thereof acting within the scope of employment or agency that relate to an HIV infection arising from treatment described in section 102(a)(2). A payment under this Act shall, however, when accepted by or on behalf of the individual, be in full satisfaction of all such claims by or on behalf of that individual.

(f) **ADMINISTRATIVE COSTS NOT PAID FROM FUND.**—No costs incurred by the Secretary in carrying out this title may be paid from the Fund or set off against, or otherwise deducted from, any payment made under subsection (c)(1).

(g) **TERMINATION OF DUTIES OF SECRETARY.**—The duties of the Secretary under this section shall cease when the Fund terminates.

(h) **TREATMENT OF PAYMENTS UNDER OTHER LAWS.**—A payment under subsection (c)(1) to an individual—

(1) shall be treated for purposes of the Internal Revenue Code of 1986 as damages described in section 104(a)(2) of such Code;

(2) shall not be included as income or resources for purposes of determining the eligibility of the individual to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits, and such benefits shall not be secondary to, conditioned upon reimbursement from, or subject to any reduction because of receipt of, any such payment; and

(3) shall not be treated as a third party payment or payment in relation to a legal liability with respect to such benefits and shall not be subject (whether by subrogation or otherwise) to recovery, recoupment, reimbursement, or collection with respect to such benefits (including the Federal or State governments or any entity that provides such benefits under a contract).

(i) **REGULATORY AUTHORITY.**—The Secretary may issue regulations necessary to carry out this title.

(j) **TIME OF ISSUANCE OF PROCEDURES.**—The Secretary shall, through the promulgation of appropriate regulations, guidelines, or otherwise, first establish the procedures to carry out this title not later than 120 days after the date of the enactment of this Act.

SEC. 104. LIMITATION ON TRANSFER OF RIGHTS AND NUMBER OF PETITIONS.

(a) **RIGHTS NOT ASSIGNABLE OR TRANSFERABLE.**—Any right under this title shall not be assignable or transferable.

(b) **1 PETITION WITH RESPECT TO EACH VICTIM.**—With respect to each individual described in subparagraph (A), (B), or (C) of section 102(a)(2), the Secretary may not make payment with respect to more than 1 petition filed in respect to an individual.

SEC. 105. TIME LIMITATION.

The Secretary may not make any payment with respect to any petition filed under this title unless the petition is filed within 3 years after the date of the enactment of this Act.

SEC. 106. CERTAIN CLAIMS NOT AFFECTED BY PAYMENT.

A payment made under section 103(c)(1) shall not be considered as any form of compensation, or reimbursement for a loss, for

purposes of imposing liability on the individual receiving the payment, on the basis of such receipt, to repay any insurance carrier for insurance payments or to repay any person on account of worker's compensation payments. A payment under this title shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

SEC. 107. LIMITATION ON AGENT AND ATTORNEY FEES.

Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the petition of an individual under this title, more than 5 percent of a payment made under this title on the petition. Any such representative who violates this section shall be fined not more than \$50,000.

SEC. 108. DEFINITIONS.

For purposes of this title:

(1) The term "AIDS" means acquired immune deficiency syndrome.

(2) The term "Fund" means the Ricky Ray Hemophilia Relief Fund.

(3) The term "HIV" means human immunodeficiency virus.

(4) Unless otherwise provided, the term "Secretary" means Secretary of Health and Human Services.

TITLE II—TREATMENT OF CERTAIN PAYMENTS IN HEMOPHILIA-CLOTTING-FACTOR SUIT UNDER THE SSI PROGRAM

SEC. 201. TREATMENT OF CERTAIN PAYMENTS IN HEMOPHILIA-CLOTTING-FACTOR SUIT UNDER THE MEDICAID AND SSI PROGRAMS.

(a) **PRIVATE PAYMENTS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, the payments described in paragraph (2) shall not be considered income or resources in determining eligibility for, or the amount of—

(A) medical assistance under title XIX of the Social Security Act, or

(B) supplemental security income benefits under title XVI of the Social Security Act.

(2) **PRIVATE PAYMENTS DESCRIBED.**—The payments described in this subsection are—

(A) payments made from any fund established pursuant to a class settlement in the case of *Susan Walker v. Bayer Corporation*, et al., 96-C-5024 (N.D. Ill.); and

(B) payments made pursuant to a release of all claims in a case—

(i) that is entered into in lieu of the class settlement referred to in subparagraph (A); and

(ii) that is signed by all affected parties in such case on or before the later of—

(I) December 31, 1997, or

(II) the date that is 270 days after the date on which such release is first sent to the persons (or the legal representative of such persons) to whom the payment is to be made.

(b) **GOVERNMENT PAYMENTS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, the payments described in paragraph (2) shall not be considered income or resources in determining eligibility for, or the amount of supplemental security income benefits under title XVI of the Social Security Act.

(2) **GOVERNMENT PAYMENTS DESCRIBED.**—The payments described in this subsection are payments made from the fund established pursuant to section 101 of this Act.

• **Mr. JEFFORDS.** Mr. President, in October of last year I held a hearing on "HIV/AIDS: Recent Developments and Future Opportunities." A good portion of that hearing was devoted to a discussion on the blood crisis of the 1980s, resulting in the HIV infection of thousands of Americans who trusted that

the blood or blood product with which they were treated was safe. Witnesses at the hearing included John Williams, the father of a child who contracted HIV from the clotting factor and died at the age of 18, and Donna McCullough, a young woman who contracted HIV when she received a blood transfusion after a miscarriage. Although Ms. McCullough remains relatively healthy, she lost her only son to AIDS. Ms. McCullough did not know of her own infection until her infant son was diagnosed.

The tragedy of the blood supply's infection has brought unbearable pain to families all over the country. I have heard from dozens, perhaps hundreds of them over the past months. As Mr. Williams testified, the community hit by this tragedy has found it nearly impossible to make recovery through the courts because of blood shield laws in most states that raise the burden of proof for product liability claims for blood and blood products. In addition, all States have statutes of limitations that prohibit litigation if the suit was not filed within a certain period of time. Other witnesses spoke of the stigma associated with HIV/AIDS and the hesitancy many felt to bring suit and thus be public about their infection.

My heart goes out to the victims and families of this terrible tragedy. I sincerely hope that we will, in this Congress, bring some peace to these families with the passage of the Ricky Ray Hemophilia Relief Fund Act. The House passed this bill by voice vote on May 19, 1998. Its companion in the Senate was introduced by Senators DEWINE and GRAHAM, and I have pledged to move that bill forward in my Committee.

Sadly, the Ricky Ray bill as introduced does not include all victims of the blood supply crisis. I feel strongly that the bill we pass in the Senate must include not only hemophiliacs, but also people who received a blood transfusion or blood product in the course of medical treatment for other illnesses. Transfusion-associated AIDS victims are subject to the same laws that Mr. Williams mentioned. While in some cases individuals in this group were able to track the source of their infection and bring suit against the blood bank, the vast majority were not.

There is the perception that most transfusion cases recovered millions of dollars in court, and that is simply not the case. Fewer than 10%—and the most credible estimates put the number at 2%—of transfusion cases made any financial recovery. Even among those transfusion cases who reached settlement the majority recovered far less than the reputed millions, the average settlement for transfusion cases is more like \$40,000.

I am introducing today an amendment to the House passed HR 1023 in the nature of a substitute. While the change to include transfusion cases increases the cost of this bill, many have

already noted that this bill is not about money, it's about fairness. I urge my colleagues to join me in recognizing the terrible tragedy the blood supply crisis of the 1980s bestowed upon all of its victims.●

HEALTH PROFESSIONS EDUCATION PARTNERSHIPS ACT OF 1998

FRIST AMENDMENT NO. 3484

Mr. GORTON (for Mr. FRIST) proposed an amendment to the bill (S. 1754) A bill to amend the Public Health Service Act to consolidate and reauthorize health professions and minority and disadvantaged health professions and disadvantaged health education programs, and for other purposes; as follows:

Beginning on page 299, strike line 20 and all that follows through line 2 on page 300.

On page 300, line 3, strike "(d)" and insert "(c)".

Beginning on page 305, strike line 21 and all that follows through line 14 on page 306, and insert the following:

"SEC. 143. INSURANCE PROGRAM.

"Section 710(a)(2)(B) of".

DASCHLE AMENDMENT NO. 3485

Mr. GORTON (for Mr. DASCHLE) proposed an amendment to the bill, S. 1754, supra; as follows:

At the appropriate place, insert the following:

SEC. ____ FETAL ALCOHOL SYNDROME PREVENTION AND SERVICES.

(a) SHORT TITLE.—This section may be cited as the "Fetal Alcohol Syndrome and Fetal Alcohol Effect Prevention and Services Act".

(b) FINDINGS.—Congress finds that—

(1) Fetal Alcohol Syndrome is the leading preventable cause of mental retardation, and it is 100 percent preventable;

(2) estimates on the number of children each year vary, but according to some researchers, up to 12,000 infants are born in the United States with Fetal Alcohol Syndrome, suffering irreversible physical and mental damage;

(3) thousands more infants are born each year with Fetal Alcohol Effect, also known as Alcohol Related Neurobehavioral Disorder (ARND), a related and equally tragic syndrome;

(4) children of women who use alcohol while pregnant have a significantly higher infant mortality rate (13.3 per 1000) than children of those women who do not use alcohol (8.6 per 1000);

(5) Fetal Alcohol Syndrome and Fetal Alcohol Effect are national problems which can impact any child, family, or community, but their threat to American Indians and Alaska Natives is especially alarming;

(6) in some American Indian communities, where alcohol dependency rates reach 50 percent and above, the chances of a newborn suffering Fetal Alcohol Syndrome or Fetal Alcohol Effect are up to 30 times greater than national averages;

(7) in addition to the immeasurable toll on children and their families, Fetal Alcohol Syndrome and Fetal Alcohol Effect pose extraordinary financial costs to the Nation, including the costs of health care, education, foster care, job training, and general support services for affected individuals;

(8) the total cost to the economy of Fetal Alcohol Syndrome was approximately

\$2,500,000,000 in 1995, and over a lifetime, health care costs for one Fetal Alcohol Syndrome child are estimated to be at least \$1,400,000;

(9) researchers have determined that the possibility of giving birth to a baby with Fetal Alcohol Syndrome or Fetal Alcohol Effect increases in proportion to the amount and frequency of alcohol consumed by a pregnant woman, and that stopping alcohol consumption at any point in the pregnancy reduces the emotional, physical, and mental consequences of alcohol exposure to the baby; and

(10) though approximately 1 out of every 5 pregnant women drink alcohol during their pregnancy, we know of no safe dose of alcohol during pregnancy, or of any safe time to drink during pregnancy, thus, it is in the best interest of the Nation for the Federal Government to take an active role in encouraging all women to abstain from alcohol consumption during pregnancy.

(c) PURPOSE.—It is the purpose of this section to establish, within the Department of Health and Human Services, a comprehensive program to help prevent Fetal Alcohol Syndrome and Fetal Alcohol Effect nationwide and to provide effective intervention programs and services for children, adolescents and adults already affected by these conditions. Such program shall—

(1) coordinate, support, and conduct national, State, and community-based public awareness, prevention, and education programs on Fetal Alcohol Syndrome and Fetal Alcohol Effect;

(2) coordinate, support, and conduct prevention and intervention studies as well as epidemiologic research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect;

(3) coordinate, support and conduct research and demonstration projects to develop effective developmental and behavioral interventions and programs that foster effective advocacy, educational and vocational training, appropriate therapies, counseling, medical and mental health, and other supportive services, as well as models that integrate or coordinate such services, aimed at the unique challenges facing individuals with Fetal Alcohol Syndrome or Fetal Alcohol Effect and their families; and

(4) foster coordination among all Federal, State and local agencies, and promote partnerships between research institutions and communities that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effect research, programs, surveillance, prevention, and interventions and otherwise meet the general needs of populations already affected or at risk of being impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effect.

(d) ESTABLISHMENT OF PROGRAM.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

"PART O—FETAL ALCOHOL SYNDROME PREVENTION AND SERVICES PROGRAM

"SEC. 399G. ESTABLISHMENT OF FETAL ALCOHOL SYNDROME PREVENTION AND SERVICES PROGRAM.

"(a) FETAL ALCOHOL SYNDROME PREVENTION, INTERVENTION AND SERVICES DELIVERY PROGRAM.—The Secretary shall establish a comprehensive Fetal Alcohol Syndrome and Fetal Alcohol Effect prevention, intervention and services delivery program that shall include—

"(1) an education and public awareness program to support, conduct, and evaluate the effectiveness of—

"(A) educational programs targeting medical schools, social and other supportive services, educators and counselors and other service providers in all phases of childhood development, and other relevant service pro-

viders, concerning the prevention, identification, and provision of services for children, adolescents and adults with Fetal Alcohol Syndrome and Fetal Alcohol Effect;

"(B) strategies to educate school-age children, including pregnant and high risk youth, concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect;

"(C) public and community awareness programs concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect; and

"(D) strategies to coordinate information and services across affected community agencies, including agencies providing social services such as foster care, adoption, and social work, medical and mental health services, and agencies involved in education, vocational training and civil and criminal justice;

"(2) a prevention and diagnosis program to support clinical studies, demonstrations and other research as appropriate to—

"(A) develop appropriate medical diagnostic methods for identifying Fetal Alcohol Syndrome and Fetal Alcohol Effect; and

"(B) develop effective prevention services and interventions for pregnant, alcohol-dependent women; and

"(3) an applied research program concerning intervention and prevention to support and conduct service demonstration projects, clinical studies and other research models providing advocacy, educational and vocational training, counseling, medical and mental health, and other supportive services, as well as models that integrate and coordinate such services, that are aimed at the unique challenges facing individuals with Fetal Alcohol Syndrome or Fetal Alcohol Effect and their families.

"(b) GRANTS AND TECHNICAL ASSISTANCE.—The Secretary may award grants, cooperative agreements and contracts and provide technical assistance to eligible entities described in section 399H to carry out subsection (a).

"(c) DISSEMINATION OF CRITERIA.—In carrying out this section, the Secretary shall develop a procedure for disseminating the Fetal Alcohol Syndrome and Fetal Alcohol Effect diagnostic criteria developed pursuant to section 705 of the ADAMHA Reorganization Act (42 U.S.C. 485n note) to health care providers, educators, social workers, child welfare workers, and other individuals.

"(d) NATIONAL TASK FORCE.—

"(1) IN GENERAL.—The Secretary shall establish a task force to be known as the National task force on Fetal Alcohol Syndrome and Fetal Alcohol Effect (referred to in this subsection as the 'task force') to foster coordination among all governmental agencies, academic bodies and community groups that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effect research, programs, and surveillance, and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effect.

"(2) MEMBERSHIP.—The Task Force established pursuant to paragraph (1) shall—

"(A) be chaired by an individual to be appointed by the Secretary and staffed by the Administration; and

"(B) include the Chairperson of the Interagency Coordinating Committee on Fetal Alcohol Syndrome of the Department of Health and Human Services, individuals with Fetal Alcohol Syndrome and Fetal Alcohol Effect, and representatives from advocacy and research organization such as the Research Society on Alcoholism, the FAS Family Resource Institute, the National Organization of Fetal Alcohol Syndrome, the Arc, the academic community, and Federal, State and local government agencies and offices.

"(3) FUNCTIONS.—The Task Force shall—